IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE, CIVIL JURISDICTION

FIRST APPEAL NO.870 OF 1999
WITH
CROSS OBJECTION STAMP NO.40022 OF 1999
WITH
CIVIL APPLICATION NO.6044 OF 1999

The State of Maharashtra.)..APPELLANT

Versus

Smt.Laxmibai Gana Mhatre
Since deceased through her heirs:-
Smt. Bamibai Lahu Govari & Anr..RESPONDENTS

Ms.K.K.Tated, A.G.P.for the Appellant
Mr. U.S. Upadhya with Mr. S.G. Surana, for the Respondent

CORAM: F.I. REBELLO & ANOOP V.MOHTA, JJ.
DATE : 26th August, 2004

P.C.:

1. Appeal along with Cross Objection and Civil Application are being disposed of by this common order.

2. Notification under Section 4 was published on 3rd February, 1970.

3. The award in respect of property identified under Survey Nos.623/2, 621/4, 671/3, 137/3, 132/2 was published on 27th March, 1976 and the award in respect of property identified under Survey No.138/3A was made on 29th August, 1981.

3. The possession of the land covered by the award dated 27th March, 1976 was taken on 30th March, 1976 and the land covered by award dated 29th August, 1981 was taken on 29th August, 1981.

4. The Pune Mumbai High from the land Survey Nos.623/2, 621/4, 671/3, 137/3 and 132/2 is situated at a distance of

1800 meters and from the land Survey No.138/3A is situated at a distance of 150 meters. 5. Considering the judgment passed in First Appeal No.757 of 2003 with Civil Application No.514 of 2003 and First Appeal No.1782 of 2002 along with Civil Application No.1078 of 2004 the market value of the land covered by both the award except Survey No.623/2 and 621/4 are fixed at Rs.21/- per sq. meter and in respect of land identified under Survey No.138/3A would be Rs.25/- per sq. meter. Consequently, they are entitled to all consequential benefits.

6. Considering that the award under Section 11 was made before 20th April, 1982 the claimants would not be entitled to compensation under Section 23(1)(A) of the Act.

7. In the light of that the First Appeal along with Cross Objections partly allowed in terms what is set out above. Civil Application disposed of.

8. If the Appellant State has deposited the amount and the amount has been withdrawn on furnishing bank guarantee the claimants are bound to make restitution in respect of excess amount received by them from the date they received the amount from the Reference Court to the date of payment. They shall also pay interest quantified at 6% per annum till the date of payment.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA, J)